

HOUSE No. 4927

Section 372 contained in the engrossed Bill making appropriations for the fiscal year 2005 (see House, No. 4850), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment BB of House, No. 4901). June 28, 2004.

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The Commonwealth of Massachusetts

In the Year Two Thousand Four

An Act providing for an investigation and study by a special commission relative to legal services for indigent persons.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. There shall be a commission to study the provision of counsel to indigent persons who are entitled to the assistance of assigned counsel either by constitutional provision, or by statute, or by rule of court. The commission shall be composed of 11 persons, including 1 member to be appointed by the speaker of the house of representatives, 1 by the president of the senate; 1 by the house chair and 1 by the senate chair of the committee on the judiciary; the chief justice of the supreme judicial court or her designee; the chief justice for administration and management of the trial court or his designee; the commissioner of probation or his designee; the chief counsel of the committee for public counsel services; the chairman of the committee for public

counsel services; a staff attorney employed by, and a private attorney who accepts assignments from, the committee for public counsel services, to be appointed by said committee.

The commission shall examine all aspects of the provision of counsel in such cases, including but not limited to (i) the frequency of the assignment of counsel to indigent persons, (ii) the feasibility of changes, consistent with chapter 211D of the General Laws, to control or reduce the frequency of case assignments, (iii) the cost of providing counsel in such cases; (iv) the adequacy of existing procedures for determining and verifying the eligibility of persons who request the assignment of counsel; (v) the adequacy of existing procedures for the assessment and collection of counsel fees from persons who have been determined to be eligible for assigned counsel; (vi) the existing balance, and the adequacy of that balance, in each practice area and county between the provision of legal representation by salaried staff counsel and certified private counsel; (vii) the frequency with which neither salaried staff counsel nor certified private counsel are available to represent a defendant entitled to publicly funded representation; (viii) the impact of the current hourly rate paid to certified private counsel on the availability or non-availability of such counsel to defendants entitled to publicly funded representation; and (ix) the feasibility and potential benefits of providing representation to indigent persons predominantly through the assignment of salaried staff counsel rather than certified private counsel.

The commission shall report its findings and recommendations to the clerk of the house of representatives who shall forward the same to the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and senate

committees on ways and means on or before February 1, 2005.

SECTION 2. This act shall take effect as of July 1, 2004.

SECTION 3. This act shall take effect upon its passage.